

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1584 of 1985

to

FIRST APPEAL No.1587 of 1985.

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

SHANABHAI MANIBHAI PATENWADIA

Appearance :

1. First Appeal No.1584/85.
MR HARDIK C RAWAL for appellant
NOTICE SERVED for Respondents No. 1-3
MR PV NANAVATI for Respondent No. 4
MR GAUTAM S PATEL for Respondent No. 4

MR SV RAJU for Respondent No. 4
MR PK JANI for Respondent No. 5
2. First Appeal No. 1585/85 to 1587/85.
MR KN RAVAL for appellant
MR AJ PATEL for Respondent No. 1
MR PV NANAVALATI for respondent No.7

CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE H.H.MEHTA

Date of decision: 05/12/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.H.KADRI)

1. The appellant-original opponent No.5 has filed the above appeals under Section 110-D of the Motor Vehicles Act, 1939 (to be referred to as "the Act"), challenging the common judgment and award dated May 18, 1984 of the Motor Accident Claims Tribunal (Main) Nadiad, in Motor Accident Claim Petition Nos.637/81, 562/81, 195/82 and 534/82.

2. As common question of facts and law are involved in the above appeals, they are disposed of by this common judgment.

A vehicular accident took place on 18-3-81 on national highway No.8 near village Mogar between the truck bearing registration No.GTZ 8527 and S.T. Bus belonging to the appellant-S.T.Corporation bearing registration No.GRT 7244. In the said vehicular accident, one passenger travelling in the bus died, whereas two passengers travelling in the said bus sustained injuries. Driver of both the offending vehicles had also sustained injuries. The applicant Shanabhai Manibhai Patenwadia, who sustained serious injuries on his head, shoulder, fingers, leg and on other part of his body and his left leg came to be amputated filed Motor Accident Claim Petition No.637 of 1981, claiming compensation of Rs.4 lacs on different heads.

3. Motor Accident Claim Petition No.562 of 1981 was filed by the owner of the truck bearing No.GTZ 8527, claiming compensation of Rs.44,000/- for the damages caused to the truck in the vehicular accident.

4. Motor Accident claim Petition No.534 of 1982 was filed by the heirs and legal representatives of the

deceased Natvarsinh Chauhan, claiming compensation of Rs.2 lacs for the untimely death of the deceased caused in a vehicular accident between the offending vehicle and the S.T.Bus.

5. All the four Motor Accident Claim Petitions were consolidated by the tribunal by order dated September 26, 1983, passed below Exh.32. The parties had led common evidence in Motor Accident Claim Petition No.637 of 1981, which was treated as main application.

6. The claim petitions were contested by the appellants, owner of the truck and the Insurance Co. by filing their respective written statements, inter-alia contending that the accident had taken place due to negligence of the driver of the S.T.Bus.

6.1 The respective claimants had led oral as well as documentary evidence in support of their claim of compensation. On behalf of the appellant, driver of the S.T.Bus Pratapbhai Nagjibhai Dodiya at Exh.70, the truck driver Bababhai alias Hamirbhai Nathubhai at Exh.89. The Tribunal on the basis of the oral and documentary evidence consisting of panchnama of the place of the accident and looking to the damage caused to the truck came to the conclusion that the negligence of both the drivers had caused the accident in question. However, the Tribunal had apportioned the negligence of S.T.Bus at 70 % and at 30 % of the driver of the offending Motor Truck.

7. The Tribunal on the evidence led by the claimants of each application awarded compensation to the claimant of M.A.C.Petition No.637 of 1981 Shanabhai Manibhai Patenwadia, who was travelling in the S.T.Bus in the sum of Rs.1,72,600/- with proportionate cost and interest at the rate of 6 % per annum from the date of the application till realization which has given rise to filing of First Appeal No.1584 of 1985. The Tribunal awarded compensation in the sum of Rs.15,157/- for the damage to the truck in favour of the owner of the truck M/s Nandlal Jivanlal & Vinodrai Dhanjibhai & Co. which has given rise to filing of First Appeal No.1585 of 1985. The Tribunal awarded compensation of Rs.26,516/- to the driver of S.T.Bus Bababhai @ Hamirbhai Naththubhai of M.A.C.Petition No.195/81 which has given rise to filing of First Appeal No.1586 of 1987. In M.A.C.Petition No.534 of 1982, the claimants, who were heirs and legal representatives of the deceased Natvarsinh Chauhan, were awarded compensation of Rs.68,000/- with proportionate cost and interest at the rate of 6 % per annum from the

date of the application till realisation for the untimely death of deceased Natvarsinh which has given rise to filing of First Appeal No.1587 of 1985.

8. Heard learned counsel for the appellant Mr. Hardik C Raval and learned counsel for the claimants and Insurance Co. Learned counsel for the claimants as well as the Insurance Co. have taken us through the entire record and proceeding of all the appeals. Learned counsel for the appellant Mr. Raval has vehemently submitted that there was head-on-collision between two offending vehicles and, therefore, the Tribunal erred in not properly apportioning negligence of each driver. According to the submission of learned advocate Mr. Raval, both the vehicles should be held negligent at 50 % each. In our view, submission of learned advocate Mr. Raval is devoid of any merit. The Tribunal had considered oral testimony of the witnesses more particularly oral testimony of both the drivers and had also taken into consideration the panchnama of the place of accident and had rightly concluded that S.T.driver was driving his bus rashly and negligently and had come on a wrong side and had dashed with the motor truck. The Tribunal was justified in proportioning the negligence of S.T.driver at 70 % and the truck driver at 30 %. Therefore, the finding of the Tribunal with regard to proportion of contributory negligence does not call for any interference.

9. Learned advocate for the appellant Mr. Raval has challenged the award passed by the Tribunal in each appeal. Learned advocate Mr. Raval has submitted that the compensation awarded to each claimant is on a higher side. We have minutely scanned through the oral as well as the documentary evidence with regard to compensation led by each claimant in their respective application. In our view, the Tribunal has taken into consideration the facts and circumstances of each case and has awarded just and adequate compensation to the claimants and, therefore, we do not deem it fit to interfere with the compensation awarded by the Tribunal to each claimant. We do not find any merits in these appeals.

10. As a result of the foregoing discussion, the appeals are dismissed. The awards passed by the Tribunal which is the subject matter of each appeal are confirmed. No order as to costs.

*mithabhai